IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Appeal No. 118 of 2006

(Old No. 1671 of 1985)

Satish Kumar Anand son of Late Sri Govind Ram Anand, resident of 248, Kohat Enclave Pritampura, New Delhi ...Appellant

Vs.

State ...Respondent

Sri I. S. Mehra (Amicus Curiae) for the appellant.
Sri Arvind Vashist, Advocate for the CBI.

Dated: November 5, 2007

Hon'ble B. C. Kandpal, J.

This Criminal appeal arises out of the judgment and order dated 19.6.1985 passed by Special Judge, Anti Corruption, U.P. (East), Dehradun thereby convicting and sentencing the appellant under Section 420 of I.P.C. to five years and Rs. 1,50,000/- as fine in default R.I. two years under Section 468 I.P.C. to undergo five years R.I. And further to pay Rs. 1,50,000/- in default two years R.I. He was also convicted under Section 471 I.P.C. and sentenced to one year's R.I. All the sentences were directed to run concurrently.

Brief facts of the case are that Sri C.S. Johri was posted as Branch Manager in the Bank of India, Hapur Branch, District Ghaziabad during the year 1976-77. According to prosecution case, Sri C.S. Johri entered into a criminal conspiracy with co-accused Sri Satish Kumar Anand, partner and Manager of M/s Ashok Trading Company, Puccabagh, Hapur, Sri Sewa Ram and Sri Ashok

Kumar with the object to commit an offence of cheating and criminal misconduct. In pursuance of said conspiracy, Sri C.S. Johri advanced several loans to the aforesaid firm under the bill purchase scheme on the basis of forged railway receipts, submitted by Sri Satish Kumar Anand along with the bills, by virtue of which as many as 11 consignments of goods were falsely shown to have been dispatched to the fake destinations. On 12.10.1976 a current account was opened in the aforesaid Bank in the name of firm M/s Ashok Kumar Trading Company Hapur and a sum of Rs. 21,000/- was transferred to the said current account from the account of M/s Govind Ram Sanjay Kumar, a sister concern of M/s Ashok Trading Company, Hapur. At the time of opening the account, a power of attorney authorizing the accused/appellant-Satish Kumar Anand to operate the account of the firm was filed with the bank. Subsequently, 11 bills supported with the forged railway receipts (R.Rs.) were submitted by the accused/appellant in the bank showing to have dispatched the consignments under the said R.Rs. to various places and accused Sri C.S. Johri in his capacity as Branch Manager allowed Sri Satish Kumar Anand to withdraw a total sum of Rs. 5,69,000/- on the basis of the said fake bills and R.Rs.

The accused/appellant, the managing partner of the firm manufactured and forged all the railway receipts and forged, referred to above, in his own handwriting. Neither any goods were booked under the aforesaid R.Rs. from the Simbholi railway station nor the consignment had ever been

dispatched. In this way, the Bank of India has been cheated by the accused Sri Satish Kumar Anand to the tune of Rs. 5,69,000/- on the basis of forged documents. The Investigating Officer on having completed the formalities of investigation and having obtained the sanction for prosecution of the accused Sri C. S. Johri, submitted charge sheet against the accused.

It is relevant to mention here that the accused-Sri Ashok Kumar expired before the trial would commence and therefore proceedings against him were declared as abated. The co-accused Sri Sewa Ram confessed his guilt of having forged the signatures of Sri Sita Ram, on the basis of this plea of his guilt he has been convicted. Sri C. S. Johri, the Branch Manager denied all the incriminating allegations levelled against him by the prosecution. The accused/appellant, Sri Satish Kumar Anand also denied all the incriminating allegations levelled against him by the prosecution.

The prosecution in support of its case produced P.W. 1 Sri S. M. Sharma, who was posted as Goods Clerk of Railway Station, Simbhauli, PW-2 Sri Madan Mohan, Senior Superintendent of Printing and Stationery Press, Northern Railway, Sakoor Basti, New Delhi, PW-3, Sri Ram Saran Dass, Chief Goods Clerk at Hapur Railway Station, PW-4, Sri Shankar Lal, Cashier-cum-Clerk, Bank of India, Hapur Branch, PW-5 Sri Satya Narain Paliwal, who succeeded Sri C.S. Johri as Branch Manager of Bank of India, Hapur Branch, PW-6 Sri V. K. Khanna, Senior Scientific Officer, C.F.S.I., PW-7 Laxmi Chand, parther of M/s Shishodia Firm,

Silliguri, PW-8 Sri C. R. Dubey Chief Goods Clerk of Silliguri, PW-9 Sri Hari Ram Kandi Lal, partner of Firm Hari Ram Narain Prasad, Silliguri, PW-10 Sri Ram Vilas Aggarwal, proprietor of firm M/s Sita Ram Shri Krishan, Naya Bazar, Silliguri, PW-11, sri P. U. Telang, officer-on-duty in Bank of India, Hapur Branch, PW-12 Sri Karuna Prasad Banerjee, Goods Supervisor, Ranchi Railway Station, PW-13 Sri Raj Kishore Prasad, partner of Firm Chunni Lal Raj Kishore Prasad, Wakarganj, Patna, PW-14, Sri Anil Kumar Aggarwal, Zonal Officer, Bank of India, Lucknow Branch, PW-15, Sri I. S. Saroha, Investigating Officer.

The accused in his defence examined DW-1, Sri S. K. Chaturvedi, Deputy Chief Officer Personnel, Regional Office, Bank of India, Ghaziabad, DW-2 Sri Veer Kumar Sakua, handwriting expert.

The learned Special Judge on hearing learned counsel for the parties and perusing the entire evidence available on record, convicted and sentenced the appellant under Section 420 of I.P.C. to five years and Rs. 1,50,000/- as fine in default R.I. two years under Section 468 I.P.C. to undergo five years R.I. And further to pay Rs. 1,50,000/- in default two years R.I. and also convicted under Section 471 I.P.C. and sentenced to one year's R.I. All the sentences were directed to run concurrently.

Feeling aggrieved by the aforesaid judgment and order, the accused-appellant has preferred this appeal before this Court.

I have heard learned counsel for the parties and gone through the record.

According to prosecution case, Sri C. S. Johri, Branch Manager in the Bank of India, Hapur Branch, District Ghaziabad, during the year 1976-77, entered into a criminal conspiracy with co-accused Satish Kumar Anand, partner and manager of M/s Ashok Trading Co., Puccabagh, Hapur, Sri Sewa Ram and Sri Ashok Kumar with the object to commit an offence of cheating and criminal misconduct. In pursuance of the said conspiracy Sri C. S. Johri advanced several loans to the aforesaid firm under the bill purchase scheme on the basis of forged railway receipts, submitted by Sri Satish Kumar Anand along with the bills, by virtue of which as many as 11 consignments of goods were falsely shown to have been dispatched to the fake destinations.

The learned Special Judge on hearing learned counsel for the parties and perusing the entire evidence available on record, found not guilty Sri C. S. Johri and acquitted him of all the charges levelled against him U/s 120(B)(1) of the I.P.C. read with Section 420 I.P.C. and Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act (Charge No. 1), Section 420 I.P.C. read with section 109 I.P.C. (charge no. 2) and section 5(2) read with section 5(1)(d) of the Prevention of Corruption Act (Charge No. 3).

However, appellant Sri Satish Kumar Anand was held guilty under Section 420 of I.P.C. to five years and Rs. 1,50,000/- as fine in default R.I. two years under Section 468 I.P.C. to undergo five years

R.I. And further to pay Rs. 1,50,000/- in default two years R.I. and also convicted under Section 471 I.P.C. and sentenced to one year's R.I. All the sentences were directed to run concurrently.

Learned counsel for the appellant has submitted that the appellant was authorized to operate the firm's account by virtue of another deed of attorney. He denied having put his specimen signatures Ext. Ka-218. He, however, admitted the guarantee bond Ext. Ka-217 having been executed by him. He denied having availed credit facility extended to him by the bank. He also denied having prepared the R.Rs. papers no. 79-A to 89-A and bill papers nos. 90A and 100A. He expressed his ignorance about Ashok Trading Company having withdrawn the amount of Rs. 5,69,000/- through vouchers Ext. Ka-47, Ka-49, Ka-52, Ka-54 and Ka-56. He also pleaded that he had submitted to the bank neither the bills nor the R.Rs. in question. He also denied having withdrawn the aforesaid amount by virtue of cheques Ext. Ka-10 to Ext. Ka-187. He has also denied the signatures subsisting on all the aforesaid cheques. He admitted his signatures Ext. Ka-61/1 on account-opening form paper no. 122-A, but denied all other signatures.

The prosecution witnesses examined in the case have proved the allegations against the accused/appellant. Each of the witnesses has corroborated themselves on the relevant point.

Further, PW-6 V. K. Khanna, handwriting expert has examined the disputed signatures on the receipts in question and compared them to the

specimen writings and signatures and arrived at the conclusion that the disputed writing and signatures on the railway receipts in dispute have been made by the same person whose specimen writings and signatures were submitted for examination.

Therefore, it has been imply established by the prosecution that the accused/appellant had submitted the forged bills/railway receipts to the Branch Manager and on whose basis he was sanctioned the amount by the Branch Manager. Thus, the learned Special Judge has rightly held the accused/appellant guilty under Sections 471, 468 and 420 of I.P.C. and convicted and sentenced him.

I do not find any irregularity and impropriety in the impugned judgment passed by Special Judge, Anti Corruption, U.P. (East), Dehradun.

The appeal lacks merit and is liable to be dismissed.

The appeal is dismissed. The impugned judgment and order dated 19.6.1985 passed by Special Judge, Anti Corruption, U.P. (East), Dehradun, is upheld. sss

(B. C. Kandpal, J.)

SP